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Supreme Court, U.S.
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No. A-154

IN THE SUPREME COURT OF THE

UNITED STATES

October Term, 1987

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RAYMOND DOBARD,

Petitioner, Appellant, Plaintiff

vs.

CITY OF OAKLAND, et al.,

Respondent, Appellee, Defendant

---

# Jurisdictional Statement
(amended)

Raymond Dobard
Appellant, in pro per
not represented by
counsel
1866 Alcatraz Avenue
Berkeley, California
94703, (415) 658-5344

November 1, 1987

To: Honorable Thurgood Marshall, Associate Justice of the Supreme Court of the United States.

## JURISDICTIONAL STATEMENT

### "Questions Presented"

1. Constitution due process laws require sufficient notice and a fair and adequate hearing be afforded property owner before his property can be demolished for its unsafe qualities. The ultimate questions presented is whether sufficient material evidence were presented, and shown to the court, by appellee, in compliance with the required Government Code section 11517(c), or the provisions of Oakland Housing Code Ordinance section H-303, or in compliance with the Fifth and Fourteenth Amendments of the U.S. Constitution, which would have verified and demonstrated that appellant Dobard was afforded an opportunity to present either oral or written argument at a "show cause" Administrative adjudicatory agency hearing, as "vested defense" PRIOR to the demolition of his two private properties for

its purported unsafe qualities?

2. Whether the demolition of the two private properties were in compliance with the provisions of the Oakland Housing Code (OHC) section H-306 (4), "Standard for Demolition," or was the demolition unwarranted and arbitrary?

3. Whether appellee presented to the court a verified "accusation," filed and served against petitioner Dobard, as a written statement of charges, specifying the inadequacies and hazards in his properties as required by (i) Oakland Housing Code section H-302; (ii) Government Code section 11503; and (iii) Government Code section 11504, that would have allowed petitioner the opportunity of a "vested defense," or the opportunity to eliminate the hazards?

4. There was material evidence presented to the court by petitioner-plaintiff, through his complaint, pleadings, and declaration, filed herein on February 4, 1985, that clearly and fully demonstrated that all noted code violations were abated in full by a valid

building permit issued by appellee and further reflect that substantial repair and alteration were was performed to the value of $140,000, that was expended in good faith reliance of the appellee issuance of the building permit. Now the ultimate question is whether there was justification or legal right for appellees to destroy these rehabilitated buildings after they were made as safe and secure as when first built by a good faith reliance on the City's issuance of the building permit which was considered a subsisting and valid contract between the parties? Was there a "vested right" involved in the permit?

5. The judgment and opinion of the U.S. Court of Appeals for the Ninth Circuit, 3/10/87, reflects on the top of page four, that petitioner failed to appear at a reinspection date at the property site on 8/9/84, and it further states that "faced with an inability to reinspect the property" the City went ahead with demolition procedures. The ultimate question is whether

a feeble excuse of (temporary) inability to inspect the interior of buildings is grounds for demolition, especially when the inspection notice was fatally defective and mailed to a wrong address?

6. Whether there was a valid and legal material showing presented to the court by appellee reflecting the public necessity for sacrificing petitioner two rehabilitated buildings, that would have endangered the health, moral, property, or well-being of the neighborhood?, or for the furtherance of a legitimate government objective?

7. Whether the demolition of petitioner's private properties utilized that method of promoting the governmental interest which was least burdensome of other rights?, or whether the demolition was commensurate to petitioner's "Economic Losses" of $140,000?

8. Whether the evidence was sufficient to justify the court's issuance of an order permitting the demolition of the buildings?, or whether a judicial determination was made of an existence of a "public nuisance" after

10/16/80, or whether the evidence was an "ex-parte" conclusion, or whether it was an abuse of discretion?

9. Whether it was an abuse of discretion for the court not to consider reasonable alternatives in lieu of order allowing destruction of the buildings, bearing in mind the substantial amount of work performed and the large sums of money expended ($140,000) for repairs and alterations and the urgent need for low-income housing for the poor and homeless, of which said housing was 80% completed and could have been easily taken over by another for the minor 20% completion?

10. Whether it was an abuse of discretion or an irregularity of the court, for U.S. District Court Judge of Northern California, John P. Vukasin, Jr., to put into effect and invoke the harsh punishment and sanction of "Dismissal with Prejudice," in this type of civil action on a struggling senior citizen property owner seeking protection and relief from the court to save his

property, bearing in mind the drastic foreclosure of rights that "Dismissal with Prejudice" effects?

11. Whether it was abuse of discretion or an irregularity of the court for Judge John P. Vukasin, Jr., to deny petitioner's timely and proper disqualification motion, when Judge Vukasin was fully aware that his brother, Mr. George Vukasin, was an officer of the adverse party, City of Oakland, and which requires by 28 USCS 455(b)(5)(1), that a sitting judge to recuse himself when a relative is an officer or director or trustee of a party?

12. Whether it was an abuse of discretion, or was it excess of his jurisdiction, for Judge Vukasin to deny petitioner's timely and proper disqualification motion of bias and prejudice, pursuant to 28 USCS 455(a), and continuing to make sua sponte prejudicial rulings and orders, aimed at destroying petitioner's properties, meanwhile discretionally delaying his recusal hearing until after demolition? Was it proper judicial procedure

for Judge Vukasin to sit, preside, rule, and make a judicial determination on his own recusal competency, with the main issues being racially biased and prejudiced against black United States citizens, and impartiality due to his brother being an officer of the adverse party?

13. Whether it was an abuse of discretion, or a fraudulent concealment of material evidence for appellee to not fully disclose to the court the material evidence that all the code violations had been abated and eliminated by proper repairs and alterations especially when this concealment caused legal injury and damage to petitioner?

14. Whether there was a judicial irregularity, a misapplication of justice, neglect, or inadvertence, for the Court of Appeals of the Ninth Circuit to wholly "confirm" the "Dismissal with Prejudice" decisions of Judge John P. Vukasin, Jr., and adding nothing except "affirmed," bearing in mind that this harsh punishment sanction of "Dismissal with Prejudice" should only be

invoked in extreme circumstances and not as in this instant property owner's case, seeking protection and relief from the courts?

Dated: 7-1-87

Respectfully submitted,

Raymond Dobard

Raymond Dobard
Appellant, in pro per
not represented by
counsel
1866 Alcatraz Avenue
Berkeley, California
94703, (415) 658-5344

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List of Parties

To: Honorable Thurgood Marshall, Associate Justice of the Supreme Court of the United States.

## JURISDICTIONAL STATEMENT

### List of Parties

In addition to the party named in the caption, the other parties to the proceedings below are:

A. City of Oakland:

1. Mr. Julius F. Thomas, Housing Division Official and Secretary to the Housing Advisory and Appeals Board.

2. Mr. James A. Blyer, Housing Division Official.

3. Mr. Gary Groves, Housing Division Official.

4. Mr. Roy S. Schweyer, Housing Division Official.

5. Ms. Eloise Rubin, Housing Division Official.

6. All Directors of the Housing Advisory and Appeals Board.

7. Mr. Henry Gardner, City Manager.

8. Mr. George Vukasin, the brother of Judge John P. Vukasin, Jr., who was elected to the Oakland Alameda County Coliseum. He is President of the Board of Directors. The Coliseum is owned by the City of Oakland.

9. United States District Court Northern District of California:

10. Judge John P. Vukasin, Jr., Appointed to the Superior Court of Alameda County by Governor Ronald Reagan on September 25, 1974, and appointed to the United States District Court Northern District of California by President Ronald Reagan on September 25, 1983.

Dated: 9-1-87

Respectfully submitted,

Raymond Dobard

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Appellant, in pro per
not represented by
counsel
1866 Alcatraz Avenue
Berkeley, California
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## Preliminary

The gravamen and substance of this cause of action is that the erroneous finding of the court that, "the properties were still a public nuisance despite some progress in rehabilitation," is contrary to the evidence. The evidence was insufficient to justify order for destruction of appellant's two valuable buildings, after all the code violations and hazardous substandard conditions had been eliminated, by proper repairs and alterations, that transformed the substandard structures to standard structures, that were as safe and secure as when first built. Appellant draws this Honorable Court's attention to Exhibits A, B, C, C-1, and D-1 (separately bound in Appendix) that reflects as follows: (i) all the list of public nuisance conditions -- code violations that are noted in Exhibit"A,"

dated March 20, 1975 (the only statement of issue herein) -- were fully abated and cured. (ii) This abatement was the result of acquiring building permits as reflected in Exhibit "B," which in is conjunction with (iii) substantial repairs and alteration work performed that are fully acknowledged by appellee, City of Oakland, as reflected in Exhibit "C," dated October 16, 1980. Appellant expended a large sum of money on this abatement, repairs, and alteration work, to a value of $140,000. This substantial work progress is supported by Exhibit "C-1," fifteen pages of photos before the list of code violations (Exhibit "A") were abated, and after they were abated, that transformed the structures from substandard to standard and safe. Appellant further draws this Honorable Court's attention to Exhibit D-1, dated September 12, 1980, a certified mail addressed to Mr. Julius Thomas, of appellee City of Oakland, informing him that all the list of code violations dated March 20, 1975,

were repaired and corrected and further requesting that these structures be removed from your Sub-Standard Housing list. There was no reply to this certified letter by Mr. Julius Thomas and thus appellant was led to believe that the cured and abated list of violations of March 20, 1975, were put to rest and no longer an issue. (All exhibits are attached as separately bound appendices herewith.)

Now the trial court and the court of appeals are being "induced" by appellees (five years later) for unverified findings relative to unsubstantiated inadequacies that were not presented to the court as a statement of issue relative to purported code violations and substandard public nuisance conditions. There was no new accusation specifying inadequacies within appellant's buildings, nor shown to either the trial or court of appeals, nor filed and served against appellant as a new statement of issue after October 16, 1980.

Fraudulent Concealment of Material Evidence: Violation of Procedural Due Process and Rights

Appellant informs this Honorable Court that the intentional perversion of truth by appellees to conceal and suppress material evidence regarding the abating and remedying of the list of violations of Exhibit "A," which it had both a legal and moral obligation to disclose, was an unwarranted and arbitrary interference with appellant's constitutional rights to carry on a lawful apartment rental business, to make contract, or to use and enjoy property. This fraudulent concealment act was performed by appellees under the guise of enforcing police regulations that further resulted in the arbitrary destruction of appellant's valuable properties at an "economic loss" of $140,000. Appellant further informs this Honorable Court that the curing and abating of the list of violations dated March 20, 1975, as depicted in Exhibit "A," by proper repairs

and alterations and the expending of large sums of money on such, were the legal means by which appellant right was enforced, or the violation of his right prevented, redressed, or compensated and thus appellee's fraudulent concealment of abatement evidence caused appellant to surrender a right, and deprived him of procedural "due process" that was guaranteed and fully protected by the Fifth and Fourteenth Amendments of the United States Constitution. Both the trial court and the court of appeals abused discretion by rendering a determination and finding based on incomplete factual evidence before it regarding the abatement of the list of code violations of March 20, 1975, which was the statement of issue herein that gave rise to the substandard/public nuisance hazardous conditions, which were fully eliminated by repairs and alterations, and thus the destruction of appellant's properties were (i) unwarranted; (ii) for no public purpose; (iii) without just compensation; (iv) arbi-

trary; and (v) without a judicial determination.

In closing this Preliminary, appellant reminds this Honorable Court that "where one has full information, as appellees, and represent he has, if he discloses a part only, and by word or conduct leads another to believe that he has made a full disclosure, and does this with intent to deceive and to prevent inquiry, he is guilt of fraud against which equity will relieve, if his words and conduct, through reliance on them, bring about the result which he desires.

(End of Preliminary)

## JURISDICTIONAL STATEMENT

Appellant Raymond Dobard, a disabled black senior citizen, appearing herein and all throughout this litigation in propria persona and without legal counsel, nor legal training, appeals from the judgment entered by the United States Court of Appeals for the Ninth Circuit on March 10, 1987, rehearing denied by final order dated June 5, 1987; affirming the Summary Judgment -- "Dismissal With Prejudice" order of the United States District Court for the Northern District of California dated September 30, 1985. A notice of appeal to this court was filed on August 26, 1987 with the Clerk of the United States Court of Appeals for the Ninth Circuit. This appeal is taken pursuant to 28 U.S.C. 1254 (2), which authorizes a direct appeal to this court from a final judgment of a federal court of appeals where the appeal to the Supreme Court is taken by a party relying on a State statute repugnant to the Constitution, or laws of the United States.

The nature of this proceeding is an action to redress: the protection of equal rights under the law (42 USC 1981); the protection of property rights of citizens (42 USC 1982); the protection against the deprivation of rights under"color of law" (42 USC 1983); against conspiracies to interfere with civil rights (42 USC 1985); and discrimination prohibited in federal financial assistance programs (42 USC 2000 a., et seq.).

A. This case involves an arbitrary interference with property rights, under the guise of enforcing police regulations which cannot be justified as an exercise of police power, results from due process clauses that sufficient notice and a fair and adequate hearing be given a property owner before his property can be demolished because of its unhealthy or dangerous qualities. Property rights are fully protected by the United States Constitution of the Fifth and Fourteenth Amendments. Procedural due process protection, i.e., in guaranteeing procedural

fairness where the government would deprive one of his property or liberty. This requires that notice and the right to a fair hearing be accorded prior to a deprivation. 237 U.S. 309. The extent to which procedural due process must be afforded a person is influenced by the extent to which he may be "condemned to suffer grievous loss ... and depends upon whether the (person's) interest in avoiding that loss outweighs the governmental interest in summary adjudication. This portion of the "due process" statement of the case contains the facts material to consideration of the "questions presented" in paragraphs (1), (5), and (8).

B. This case further involves a deprivation of rights to carry on a lawful apartment rental business, to make contracts, or to use and enjoy property. This lawful apartment rental business was arbitrarily terminated by the demolition and destruction of these private properties, under the guise of public nuisance, that failed to utilize

that method of promoting the governmental interest which was least burdensome of other rights, especially when all the hazards were fully abated and eliminated by proper and valid repairs and alterations to the buildings that made them safe and secure as when first built. The facts material to consideration of the "questions presented" regarding the deprivation of property rights and the arbitrary and unwarranted destruction of the properties are in paragraphs (2), (4), (6), (7), (8), and (9).

C. This case further involves: (i) a conspiracy to interfere with appellant's civil rights; (ii) a conspiracy to effect a legal purpose with corrupt intent; or by improper means; (iii) in concert and conspiracy, to deprive appellant of his federally protected rights and opportunity of being heard at two administrative adjudicatory hearings, where rulings and decisions were being made relative to the demolition and destruction of his properties which deprived

appellant of a "vested defense"; (iv) the fraudulent concealment and suppressing of material evidence, regarding the abatement and remedy of substandard and public nuisance conditions of buildings, caused appellant legal injuries and damages; and arbitrarily forced him to surrender a right of defense. The facts material to consideration of the "questions presented" can be found in paragraphs (1), (2), (3), (4), (6), and (13).

D. This case further involves a breach of a "vested right" in a building permit issued in good faith and granted by appellee City of Oakland to abate the code violations, of which were fully eliminated by a substantial amount of repair and alteration work performed, and by a large sum of money expended on repairs ($140,000 in value) which were expended in good faith reliance on the building permit issued and granted by the Housing division of the City of Oakland. The facts material to consideration of the "questions presented" regarding appellant's

"vested right" in the building permit (that was at no time ever cancelled by appellees) and subsequent adoption of demolition will not affect such property so as to preclude completion or modification of the project for which the permit was issued, can be found in paragraph (4).

E. This case is deeply rooted with city politics, whereas the brother of the sitting judge has been an officer of the adverse party, appellee City of Oakland since 1980, for the past seven years consistently and presently is the president of the board of directors of the Oakland Alameda County Coliseum, which is owned by the City of Oakland. Mr. George Vukasin, the brother of Judge John P. Vukasin, Jr., was a former city councilman of adverse party, City of Oakland, from 1976 to 1980. Mr. George Vukasin, with his delegated powers as an officer of the City of Oakland, entered a memorandum of agreement dated 9/17/85, to loan the Oakland Athletics baseball company $15,000,000 of

public funds that was ratified and paid by the Oakland City Council by its resolution No. 63970 C.M.S., dated 7/15/86. The opinion No. 86-502, dated 4/1/87, of the California Attorney General, John K. Van De Kamp, declared and found that Mr. George Vukasin and his Coliseum board of directors to be a corporate body which has been delegated powers of a legislative body of a local agency, the City of Oakland and County of Alameda, pursuant to Government Code section 54952.2. The facts material to consideration of the "questions presented" regarding the denial of appellant's motion for disqualification of Judge JOhn P. Vukasin, Jr., can be found in paragraphs (10), (11), and (12).

F. The recused and disqualification questions of Judge John P. Vukasin, Jr., was first raised when the very first document of this case was filed on February 11, 1985 as the motion to disqualify Judge pursuant to the federal statute 28 USCS 455(a), "where impartiality may be reasonably questioned,

with supportive affidavit of prejudice to disqualify judge as the companion document of same date, February 11, 1985. The recusal hearing was delayed on two occasions and until after appellant's properties were allowed to be demolished and destroyed by sua sponte orders of Judge Vukasin and subsequent summary judgment in favor of defendant and the harsh sanction of "Dismissed with Prejudice."

G. The reasons why the questions presented are so substantial as to require plenary consideration, with briefs on the merits and oral argument, for their resolution are as follows:

1. For the promoting of the General Interest of Justice.

2. To prevent the exercising of police power by a municipality in an oppressive or arbitrary manner, or discriminate against a class or an individual, under the guise of enforcement of an ordinance.

3. To prevent an arbitrary interference

with property rights protected by the Fourteenth Amendment of the United States Constitution.

4. To prevent the frustration of the orderly development of private properties after substantial work was performed and a large sum of money expended for repairs and alterations.

5. To compel full disclosure of abated and remedied conditions of a building that is being affected by demolition.

6. To prevent the deprivation of property, without due process of law.

H. The opinion of the United States Court of Appeals for the Ninth Circuit dated March 10, 1987, and the rehearing denial by order dated June 5, 1987, are not reported and are set forth in an appendix which is filed herewith as a separate document.

Companion Case I: Is raising similar substantive questions as this appeal, was previously before this court as Caroline W. Dobbins, plaintiff in error v. City of Los

Angeles, 25 Supreme Court 18-23, October term 1904. This statement by Justice Day: stated that plaintiff Dobbins purchased land to erect, construct and maintain gasworks in the City of Los Angeles. Plaintiff Dobbins made application to the City of Los Angeles for a permit to construct and erect her gas works. That permit was granted by the City of Los Angeles. After the permit was granted and issued construction work began for the erection of the gas works. After the foundation was constructed at a cost of upward of $2,500, and nearly completed, the City Council passed an ordinance frustrating the completion of construction work. Plaintiff Dobbins relying upon the protection of the 14th Amendment to the Constitution of the United States prayed that the permit granted

by the City of Los Angeles be declared to be valid and subsisting contract between the city of Los Angeles and herself and that all ordinances passed by the City Council in contravention thereof be declared void; that

the defendant be enjoined from enforcing said ordinances against the plaintiff, from delaying or interfering with the action of the plaintiff in the construction and erecting said works, from interfering with the maintenance and operation of same, and for genera relief.

Mr. Justice Day delivered the opinion of the court:

The "question presented" involves the right of the plaintiff to invoke the protection of the Fourteenth Amendment against alleged infraction of her rights by the action of the City Council in passing and enforcing the ordinances which prevent the carrying on of the business of making and selling gas to the people of the city.

The judgment is reversed, and the case remanded to the court for further proceedings. The relationship of this case to appellant's is that (i) a building permit was issued by the municipality appellees of each; (ii) substantial work and large sums of money

were expended on repairs and construction in reliance on the building permit issued by the City. (iii) Both projects were ordered "shut down" by the appellee's city. (iv) Both building permits were construed to be valid subsisting contracts binding on all parties, with acquired vested interest that precludes demolition. (v) Both cases invoke protection of 14th Amendment for the infraction of rights.

Companion Case II: It has also been established doctrine at least since Justice Holmes' opinion for the court in Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922) that "The general rule at least is, that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." While the typical taking occurs when the government acts to condemn property in the exercise of its power of eminent domain, the entire doctrine of inverse condemnation is predicated on the proposition that a taking may occur without

such formal proceedings.

The relationship of this case to appellant is that appellees went passed the limits of police power regulation and went into the area of infringement on Constitutional rights when appellees demolished appellant's remedied and abated structures after all hazards were eliminated and the structures were as safe and secure as when first built.

Companion Case III: First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, Supreme Court opinion No. 85-1199, dated June 9, 1987. In this cause of action the County of Los Angeles took immediate steps to exercise its police regulation power to deny Lutheran Church the right to develop structures on its land because the county determined that it was required for the immediate preservation of the "Public Health and Safety."

Chief Justice Rehnquist delivered the opinion of the Supreme Court that stated

governmental action that even temporarily denies landowner all use of land so as to be considered "taking" of property within meaning of Fifth Amendment's Just Compensation Clause requires government to pay landowner value of use for period during which use is denied, even though such requirement lessens government's freedom and flexibility when enacting land-use regulation, case is remanded.

This case relates to appellant's case because appellant was denied the right to develop structures on his land, under the guise of enforcing police regulations by appellees for the alleged and purported preservation of "Public Health and Safety," whereas appellant had abated all code violations and eliminated all hazardous public nuisance conditions and the structures were as safe and secure as when first built.

Companion Case IV: Nollan v. The California Coastal Commission, United States Supreme Court No. 86-133. Justice Antonin

Scalia said for the court that government officials may not casually force property owners to meet extreme conditions in building on their land. Justice Scalia further said that conditions imposed on landowners must be closely linked tc a legitimate government purpose.

The relationship of this case to appellant's is that appellees wrongfully demolished appellant's properties under extreme conditions and not due to health and safety. Appellant refers this Honorable Court to Exhibit B-B, the City of Oakland interoffice letter dated February 26, 1985, that clearly states and admits those extreme conditions as follows: (i) Expected full rehabilitation of two buildings within 120 days, that are within the poorer neighborhood of the City of Oakland,here no bank or lending institution will grant or guarantee any loan to any person to rehabilitate a building within this "Designated Area," and the 120 days statement was made in duress;

(ii) Appellees informed and led appellant to believe that due to the involved code violations contained in the buildings appellant would receive Federal financial assistance on a priority basis for abating and curing code violations. This financial assistance was not forthcoming because appellees deprived appellant from participating in the federal loan program that was being administered by appellees; (iii) appellees alleged "slow progress" over two years by their observation. However, appellant draws to this Honorable Court's attention Exhibit "C" and C-1, dated October 16, 1980, an acknowledgement work progress report where appellee's housing division official admits substantial progress has been made; (iv) another extreme condition was appellee's false statement that appellant did not allow staff to reinspect the interior of the property and thus staff proceeded to the next step in the process, demolition. Appellant states to this court that (temporary) inability to re-inspect the

interior of the property is not a standard for demolition in the Oakland Housing Code Ordinance, and therefore appellee's demolition on this pretext is considered Extreme Conditions on the part of appellees; (v) Further evidence of appellees compelling appellant to comply with their "overreaching" as an extreme condition is stated by appellees in its writing of, "Due to the "extensive time" which had passed on this case, the staff, with advice of the City Attorney, proceeded with the demolition despite the extension request. Appellant again states to this Honorable Court that appellees must follow the rules and regulations of its Oakland Housing Code Ordinance, and "Extensive Time" is not standard for demolition. Therefore the relationship that exists is that appellees are overreaching and attempting to compel appellant to reach extreme and oppressive conditions that are not closely linked to a legitimate government purpose.

CONSTITUTIONAL AND STATUTORY PROVISIONS

The constitutional provisions; statutes, ordinances, and regulations that the case involves are lengthy and their citations are described below and their pertinent texts are set forth in separately bound appendix.

Citations: United States Constitution, Fifth and Fourteenth Amendments; 42 USC 1981, 1982, 1983, 1985, and 2000; 28 USCS 455(a) and 455(b)(5)(i); the Oakland Housing Code Ordinance No. 8549 C.M.S.; Government Code section 11509, 11516, and 11517, § 54950 et seq.

CONCLUSION

In closing appellant believes that the Court of Appeals for the Ninth Circuit abused discretion and erred by its judgment and opinion dated 3/10/87 because the findings were contrary to the law, the facts, and the evidence.

a. The court's findings averred, on page 1, that Mr. George Vukasin, Judge Vukasin's brother, is president of the

Oakland Coliseum Board. The Coliseum Board is completely independent from the adverse party City of Oakland. Appellant refutes this by stating that the official municipal acts and course of conduct of Mr. George Vukasin, with his legislative authority of performing the business of the City having his foundation in public policy by his implementing and affixing his signature to the document of the memorandum of agreement document, dated September 17, 1985, between the Oakland-Alameda County Coliseum, Inc., a non-profit corporation, and the Oakland Athletic Baseball Company, for the making of a $15,000,000 loan of public funds, that was ratified and paid by the Oakland City Council by its resolution no. 63970 C.M.S, dated 7/26/86, is sufficient evidence to clearly demonstrate that Mr. George Vukasin is an officer, or director of the City of Oakland engaged in doing its business and is not completely independent from the City as averred by the erroneous affirmation findings

of the Court of Appeals for the Ninth Circuit. Therefore, Judge Vukasin, the trial court's sitting judge, should have granted appellant's timely motion of disqualification and recuse his self, pursuant to 28 USCS section 455(b)(1), where a sitting judge has an immediate family member as an officer or director of the adverse party, or pursuant to 28 USCS section 455(a), where impartiality might be reasonably questioned.

b. There was no direct documented connection shown to the court by appellees to justify appellees' enforcing its policy regulation of demolition on appellant Dobard's rehabilitated properties for the "unrelated" acts and course of conduct of the former property owners. Appellant states that the findings of the court on 3/10/87 relative to the acts, conduct, or condition of the buildings when under the control of the former owners, and nearly ten years prior to filing this lawsuit, during the periods of April 22, 1975, or August 18, 1977, is not directly

connected to appellant and is completely and clearly "unrelated" to him by law (see Govt. Code §11506(3)), whereas appellant objects to the form of accusation on the grounds that it is so indefinitely or uncertain that appellant cannot identify the transaction or prepare his defense. Appellant states he is not responsible for the acts and conduct in 1975 of the former owners of his property. There was no accusation filed and served against appellant by appellees in 1975 or 1977 as a statement of issue to respond to. (See Govt. Code §§ 11503 and 11504)

c. There was no verified documented evidence presented to the court of appeals to justify demolition of appellant's private properties as required by Oakland Housing Code Ordinance (O.H.C.) Section H-302 (1) and (2), for determining whether the specified inadequacies or hazards were corrected and eliminated prior to the issuance of the arbitrary order of demolition. There was no judicial determination made on a presently

existing public nuisance, except "hearsay."

d. There was no verified documented evidence presented to the court, except "hearsay," that demonstrated appellant was given sufficient due process notice, for an opportunity to be heard and to rebut the testimony of appellee's housing division officials regarding alleged public nuisance violations, during the two adjudicatory hearings held before the H.A.A.B. tribunal on Septemper 6, and October 4, 1984, where two decisions were being made for demolishing appellant's private properties for its alleged unsafe conditions. Such testimony by said officials are construed to be ex-parte evidence and cannot be used to uphold an administrative ruling. (Desert Turf Club v. Bd of Spvrs, 141 Cal.2d 446, 296 P.2d 882).

e. On page 5 of the Court of Appeals' judgment and opinion of 3/10/87, the court alludes to the 120-day privilege allowed by appellees from August 13, 1979, for rehabilitating his properties. Appellant states that

a right is not a privilege nor a bargaining chip and the 120-day unilateral duress allegation was intended exclusively to regulate the elimination of the hazards as reflected in the list of violations dated 3/20/75. The 120-day unilateral duress allegation imposed by appellees is construed to be compelling appellant to meet "extreme conditions" that are not applied by appellees to other property owners repairing or rehabilitating their properties. Thus the duress 120 days is an "extreme condition" applied by appellees and thus void and a nullity. Furthermore, the 120-day "duress" allegation of 8/13/79 was seasonably waived (after six years) by Rule 12H(1), defense and objections, and statute of limitation.

In the interest of Justice appellant prays for plenary consideration in appealing to the Honorable Supreme Court of the United States of America.

Dated: 11/1/87

Raymond Dobard

Raymond Dobard, Appellant
in pro per not represented by counsel